



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,103

04/12/2004

Charles F. Irwin

103-3

2142

7590
DILWORTH IP, LLC
SUITE 206
2 CORPORATE DRIVE
TRUMBULL, CT 06611

04/01/2009

EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,103	Applicant(s) IRWIN, CHARLES F.	
	Examiner Andre Boyce	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 have been examined.

Specification

2. The abstract of the disclosure is objected to because it is longer than 150 words.
Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 17-21 are objected to because of the following informalities: System claims 17-19 depend from method claim 10, thus covering multiple statutory classes. Claims 20 and 21 are objected to as dependent claims. For Examination purposes, the Examiner will assume claims 17-19 are intended to depend from claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-10 and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "[i]n a system for effectuating the shipment appointment-making process between one or more buyers and sellers and their third party providers

Art Unit: 3623

(collectively called Partners) in a supply community, a process including the steps of... (emphasis added). As such, the claim language seems to be directed towards two different statutory classes. Claims 2-10 and 17-21 are rejected as dependent claims.

Claims 11-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether the claim element is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph, because independent claim 11 includes "...means by which a ship location..." in line 4 (emphasis added). Claims 12-21 are rejected as dependent claims. If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to:

(a) Amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines: the phrase "means for" or "step for" must be modified by functional language and the phrase must **not** be modified by sufficient structure, material, or acts for performing the claimed function; or

(b) Show that the claim limitation is written as a function to be performed and the claim does **not** recite sufficient structure, material, or acts for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-10 and 17-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to a particular machine or apparatus, or (2) transform a particular article to a different state or thing. *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claim 1 the claim language recites the steps of a ship location Partner creating, configuring, and maintaining an appointment calendar; one or more other Partners contemporaneously querying the appointment calendar; the one or more other Partners submitting an appointment reservation request, etc., however the claim language does not include the required tie or transformation.

Claims 2-10 and 17-21 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 9, 10, 11, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wojcik et al (USPN 5,666,493).

As per claim 1, Wojcik et al disclose in a system for effectuating the shipment appointment-making process between one or more buyers and sellers and their third party providers (collectively called Partners) in a supply community (i.e., delivery process for managing inbound and outbound movement of goods, column 7, lines 41-43), a process including the steps of: a ship location Partner creating, configuring, and maintaining an appointment calendar (i.e., order delivery planning 300, including appointment scheduling at warehouse, figure 12); one or more other Partners contemporaneously querying the appointment calendar for a specific ship location to determine available pick-up and delivery dock times (i.e., appointment scheduled to come to dock, column 8, lines 27-29); the one or more other Partners submitting an appointment reservation request to the ship location Partner; and the ship location Partner declining or accepting the appointment reservation request (i.e., scheduled appointment necessarily indicates an appointment request was accepted, wherein the warehouse keeps a list of appointments and times, column 8, lines 27-33).

As per claim 9, Wojcik et al disclose a Partner may query and view appointment information for any appointment reservation request and for any approved appointment reservation provided that the appointment reservation is relevant to that Partner (i.e., warehouse keeping a list of appointments and times, while tracking truck schedules, wherein an appointment is scheduled to come to the dock to pick up the product, column 8, lines 27-36) including the entirety of a multi-Partner multi-segment tour so as to facilitate Partner collaboration in the planning of the multi-Partner shipment (i.e., delivery process for managing inbound and outbound movement of goods, column 7, lines 41-43).

As per claim 10, Wojcik et al disclose the entirety of the multi- Partner multi-segment tour includes continuous move and multi-stop pick-up and delivery shipments (i.e., order consolidation, figure 13).

Claims 11, 19 and 20 are rejected based upon the same rationale as the rejections of claims 1, 9 and 10, respectively, since they are the system claims corresponding to the method claims.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-8, 12-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wojcik et al (USPN 5,666,493).

As per claim 2, Wojcik et al does not explicitly disclose wherein the appointment calendar is created, configured, and managed in such a manner as to consider and incorporate the operating hours of the ship location and the number of dock doors in operation during those hours of operation, the peak and off-peak hours of the ship location for any reason, the duration of each dock time slot, any dock time slots set aside by the ship location for any reason and thereby unavailable to the one or more other Partners for requesting an appointment reservation, the lead-time required for requesting an appointment reservation of a dock time slot in the appointment calendar, the appointment reservation request auto-approval aging time, and the appointment-making privileges of the one or more other Partners as specified by ship location Partner. However, Wojcik et al discloses the warehouse keeping a list of appointments and times, while tracking truck schedules, wherein an appointment is scheduled to come to the dock to pick up the product (column 8, lines 27-36). It would have been obvious to one of ordinary skill in the art to include operating hours of the ship location and the number of dock doors in operation during those hours of operation, the peak and off-peak hours of the ship location for any reason, the duration of each dock time slot, any dock time slots set aside by the ship location for any reason and thereby unavailable to the one or more other Partners for requesting an appointment reservation, the lead-time required for requesting an appointment reservation of a dock time slot in the appointment calendar, the appointment

Art Unit: 3623

reservation request auto-approval aging time, and the appointment-making privileges of the one or more other Partners as specified by ship location Partner, in Wojcik et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 3, Wojcik et al does not explicitly disclose the appointment-making privileges specified by the ship location Partner include the privilege to request a pre-appointment, the privilege to request a repeating standing appointment, and the privilege to self-appoint appointments. However, Wojcik et al discloses the warehouse keeping a list of appointments and times, while tracking truck schedules, wherein an appointment is scheduled to come to the dock to pick up the product (column 8, lines 27-36). It would have been obvious to one of ordinary skill in the art to include the appointment-making privileges specified by the ship location Partner include the privilege to request a pre-appointment, the privilege to request a repeating standing appointment, and the privilege to self-appoint appointments, in Wojcik et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 4, Wojcik et al disclose the ship location Partner may elect to manually review and approve or decline the appointment reservation requests and to

Art Unit: 3623

auto-accept the appointment reservation requests for any Partners that have not been granted self-appointing privileges by that ship location Partner after the appointment request auto-approval aging time specified by the ship location Partner has elapsed (i.e., warehouse keeping a list of appointments and times, while tracking truck schedules, wherein an appointment is scheduled to come to the dock to pick up the product, column 8, lines 27-36).

As per claim 5, Wojcik et al disclose the ship location is owned by at least one Partner (i.e., warehouse owner, including seller of products, column 8, lines 30-33).

As per claim 6, Wojcik et al disclose the ship location is a third-party owned facility serving one or more Partners (i.e., warehouse owner, column 8, lines 30-33).

As per claim 7, Wojcik et al disclose at least one Partner is a carrier (i.e., ABC carrier, column 8, line 26).

As per claim 8, Wojcik et al disclose at least one Partner is a shipper (i.e., XYZ truck, column 8, lines 23-26).

Claims 12-18 are rejected based upon the same rationale as the rejections of claims 2-8, respectively, since they are the system claims corresponding to the method claims.

Claim 21 is rejected based upon the same rationale as the rejections of claims 3-10, since it is the system claim corresponding to the method claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Rauber et al (USPN 6549891) disclose managing inventory.

-Franco (USPN 7257552) discloses real-time transaction processing consumer products distribution system.

-Davidson et al (USPN 7003720) disclose an electronic shipment planner.

-Wachholz-Prill (USPN 7257579) discloses determining a rule type for selecting an action.

-Duncan (USPN 6934692) discloses transacting business between multiple buyers and sellers.

-Joao et al (US 2004/0230601) disclose providing shipment information.

-Kroswek et al (US 2005/0065828) disclose supply chain management.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
March 29, 2009